

LEGISLATURE OF THE STATE OF IDAHO
Sixty-first Legislature First Regular Session - 2011

IN THE SENATE

SENATE BILL NO. 1084

BY HEALTH AND WELFARE COMMITTEE

AN ACT

RELATING TO ADOPTION; AMENDING SECTION 16-1506, IDAHO CODE, TO REMOVE PROVISIONS PERMITTING SOCIAL INVESTIGATIONS BY CERTAIN INDIVIDUALS, REQUIRING THE FILING OF A REPORT AND PERMITTING A FILING FEE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section 16-1506, Idaho Code, be, and the same is hereby amended to read as follows:

16-1506. PROCEEDINGS ON ADOPTION. (1) Proceedings to adopt a child shall be commenced by the filing of a petition together with a copy thereof. The petition shall be initiated by the person or persons proposing to adopt the child and shall be filed with the district court of the county in which said person or persons reside. If the adoption arises from a child protective act case, the petition shall be filed in the court having jurisdiction over the child protective act case unless that court relinquishes jurisdiction over the adoption proceeding. The petitioners shall have resided and maintained a dwelling within the state of Idaho for at least six (6) consecutive months prior to the filing of a petition. The petition shall set forth the name and address of the petitioner or petitioners, the name of the child proposed to be adopted and the name by which the person to be adopted shall be known if and when adopted, the degree of relationship of the child, if any, to the petitioner or petitioners and the names of any person or agency whose consent to said adoption is necessary. At the time fixed for hearing such petition the person adopting a child, and the child adopted, and the spouse of the petitioner if a natural parent of the child, must appear before the court of the county wherein the petition was filed. The petitioner shall at such time execute an agreement to the effect that the child shall be adopted and treated in all respects as his own lawful child should be treated.

(2) Any person or persons whose consent is required shall execute such consent in writing, in a form consistent with the provisions of section 16-2005(4), Idaho Code, which consent being filed in the court where the application is made, shall be deemed a sufficient appearance on the part of such person or persons. If any adoptive parent, or a person not a minor being adopted by a resident adult under the provisions of section 16-1501, Idaho Code, is a member of the armed services and is unable to attend the hearing, his appearance and testimony shall be received by means of deposition, which shall be filed in the court at the time of the hearing.

(3) Prior to the placement for adoption of any child in the home of prospective adoptive parents, it shall be required that a thorough social investigation of the prospective adoptive family and all of its members, consistent with the rules regarding such investigations promulgated by the department of health and welfare, shall be completed and that a positive recommendation for adoptive placement shall have been made. ~~The social in-~~

1 ~~vestigation may be performed by any individual who meets the requirements of~~
2 ~~the law. A copy of the study must be submitted to the department and the de-~~
3 ~~partment may impose a reasonable fee, not to exceed fifty dollars (\$50.00),~~
4 ~~for oversight of such privately conducted studies.~~ If the prospective adop-
5 tive parent has a disability as defined in this chapter, the prospective
6 adoptive parent shall have the right, as a part of the social study, to pro-
7 vide information regarding the manner in which the use of adaptive equipment
8 or supportive services will enable the parent to carry out the responsibili-
9 ties of parenting the child. The person performing the social investigation
10 shall advise the prospective adoptive parent of such right and shall con-
11 sider all such information in any findings or recommendations. The social
12 investigation of any prospective adoptive parent with a disability shall
13 be conducted by, or with the assistance of, an individual with expertise in
14 the use of such equipment and services. Nothing in this chapter shall be
15 construed to create any new or additional obligation on state or local gov-
16 ernments to purchase or provide adaptive equipment or supportive services
17 for parents with disabilities. In those instances where the prospective
18 adoptive parent is married to the birth parent or is the grandparent of the
19 child to be adopted, such social investigation shall be completed with re-
20 gard to the prospective adoptive parent only upon order of the court. In
21 exigent circumstances where the prospective adoptive parents are determined
22 by the court to have been unable to complete a social investigation of the
23 family with a positive recommendation prior to the time the child is placed
24 in the home, the child shall remain in the home unless the court determines
25 the best interests of the child are served by other placement. If exigent
26 circumstances exist, a social investigation shall be initiated within five
27 (5) days of placement. Once initiated, all studies shall be completed within
28 sixty (60) days. Upon the filing of a petition to adopt a minor child by a
29 person unrelated to the child or unmarried to a natural parent of the child
30 and at the discretion of the court upon the filing of any other petition for
31 adoption, a copy of such petition, together with a statement containing the
32 full names and permanent addresses of the child and the petitioners, shall
33 be served by the court receiving the petition within five (5) days on the di-
34 rector of the department of health and welfare by registered mail or personal
35 service. If no private investigation is conducted, it shall then be the duty
36 of the said director, through the personnel of the department or through
37 such qualified child-placing children's adoption agency incorporated under
38 chapter 3, title 30, Idaho Code, as the director may designate, to verify the
39 allegations of the petition, and as soon as possible not exceeding thirty
40 (30) days after service of the petition on the director to make a thorough
41 investigation of the matter to include in all cases information as to the
42 alleged date and place of birth and as to parentage of the child to be adopted
43 as well as the source of all such information and report his findings in writ-
44 ing to the court. The investigative report shall include reasonably known
45 or available medical and genetic information regarding both natural parents
46 and sources of such information as well as reasonably known or available
47 providers of medical care and services to the natural parents. A copy of all
48 medical and genetic information compiled in the investigation shall be made
49 available to the adopting family by the department or other investigating
50 children's adoption agency prior to entry of the final order of adoption.

1 The petition, statement and all other papers, records or files relating to
2 the adoption, including the preplacement investigation and recommendation,
3 shall be returned to the court with the investigative report. The department
4 of health and welfare or other children's adoption agency may require the
5 petitioner to pay all or any part of the costs of the investigation. If the
6 report disapproves of the adoption of the child, motion may be made to the
7 court to dismiss the petition.

8 (4) Proceedings for termination of parent-child relationship in accor-
9 dance with chapter 20, title 16, Idaho Code, and proceedings for adoption may
10 be consolidated and determined at one (1) hearing provided that all of the
11 requirements of this chapter as well as chapter 20, title 16, Idaho Code, be
12 fully complied with. Nothing in either chapter shall be construed as limit-
13 ing the initiation of any petition for approval of a verified financial plan
14 for adoption expenses pursuant to section 18-1511, Idaho Code, prior to the
15 birth of the child which is the subject of any adoption proceeding. In all
16 disputed matters under this chapter or chapter 20, title 16, Idaho Code, the
17 paramount criterion for consideration and determination by the court shall
18 be the best interests of the child.

19 (5) Proceedings for the adoption of an adult shall be as provided in
20 subsection (1) of this section and any consents required shall be executed
21 as provided in subsection (2) of this section. Upon a finding by the court
22 that the consent of all persons for whom consent is required has been given
23 and that the requirements of section 16-1501, Idaho Code, have been proven
24 to the satisfaction of the court, the court shall enter an order granting the
25 adoption. In cases where the adult proposed to be adopted is incapacitated
26 or disabled, the court may require that an investigation be performed. The
27 form and extent of the investigation to be undertaken may be as provided in
28 subsection (3) of this section, or as otherwise ordered by the court. If an
29 investigation is performed, the court must review and approve the findings
30 of the investigation before issuing an order approving the adoption.